D.C. OFFICE OF WAGE-HOUR

LABOR STANDARDS BUREAU

GOVERNMENT OF THE DISTRICT OF COLUMBIA

DEPARTMENT OF EMPLOYMENT SERVICES

TIPPED WORKERS

COORDINATING COUNCIL

MAY 20, 2021

DOES.DC.GOV





AGENDA

MAY 20, 2021

- Welcome Introduction
 - Alan Karnofsky, Deputy Chief of Staff (DOES)
- 2. Swearing In of One New Member
- Introduction of Tipped Workers Coordinating Council Members
- 4. Introduction of Office of Wage Hour Tipped Audit Team
- 5. Public Comments
- 6. Overview and Presentation of the Tipped Wage Law
 - Tipped data management system
 - Tipped audits/Minimum Wage increase
 - Process and procedures
 - Transitioning into the Law
 - Public Education Efforts

- 7. Closed Session: Business Meeting
 - Select Chair
 - Select regular scheduled meeting times
- 8. Next Steps



TIPPED WORKERS COORDINATING COUNCIL

MEMBERS

- 1. Department of Employment Services Alan Karnofsky
- 2. Department of Consumer and Regulatory Affairs John Kuhl
- 3. The Office of Human Rights Director Monica Palacio
- 4. The Office of Nightlife and Culture Jennifer McCahill
- 5. The Restaurant Association Metropolitan Washington VACANT
- The Hotel Association of Washington, DC VACANT
- 7. Two representatives, appointed by the Mayor, from District-based organizations that engage in policy or advocacy for tipped workers:
 - 1. Jaryd Spann
 - 2. Tracy Javier
- 3. Three representatives, appointed by the Chairman of the Council:
 - Two representatives from District-based organizations that engage in policy or advocacy for tipped workers:
 - Zachary Hoffman
 - VACANT
 - One representative shall be an employer that employs an employee who is paid in accordance with § 32-1003(f), but is not part of the restaurant or hotel industry. -VACANT



OFFICE OF WAGE-HOUR (OWH)



The Office of Wage-Hour (OWH)

Location: 4058 Minnesota Avenue NE, Suite 3600, Washington, DC 20019

Phone: 202.671.1880

Email: owh.ask@dc.gov

Website: does.dc.gov

Michael Watts, Associate Director, along with

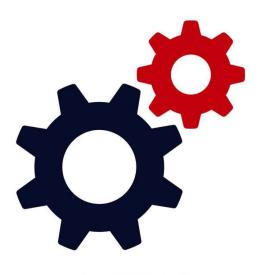
Tom Gay, Tip Workers Coordinating Council Point of Contact,

Maurice Echols, Tip Portal Audit Manager, and OWH staff work to ensure:

- Employers in the District of Columbia comply with DC Wage Laws, and
- Employees in the District of Columbia are fairly and properly compensated for work performed in the District.

OWH FUNCTIONS

The Office of Wage-Hour serves employers and employees of the District of Columbia by:



- Performing intake interviews for claimants in office
- Investigating claims
- Conducting compliance audits

- Working to recover back wages
- Engaging the public

LAWS ENFORCED BY OWH



- DC Wage Payment and Collection Law
- Minimum Wage Amendment Act of 2013
- Accrued Sick and Safe Leave Act of 2008 (ASSLA)
- Living Wage Act of 2006
- Wage Theft Prevention Amendment Act of 2014 (WTPAA)
- DC Sustainable Omnibus Act

WAGE RECOVERY OPTIONS



Wage-Hour Administrative Investigation

This is an administrative process where the claim is handled by the
 Office of Wage-Hour on behalf of the claimant.

Administrative Law Judge Hearing

 This is a formal hearing requested by either the claimant or the employer, where those individuals are representing themselves in front of the Administrative Law Judge.

Civil Action: Court Proceeding

The Office of the Attorney General prosecutes these civil actions.

OWH CLAIMS PROCESS



- Initial Evidence Collection
- Requests for Additional Information
- Notice of Claim
- Initial Determination
- Appeal or Conciliation

FAIR SHOT MINIMUM WAGE AMENDMENT ACT

• This Act amends the Minimum Wage Act Revision Act of 1992 to increase the minimum wage in the District of Columbia to \$15.00 an hour by 2020. Also, the minimum wage for tipped workers will increase to \$5.00 an hour by 2020:

Employees who do not receive gratuities	Employees who receive gratuities
\$11.50 per hour beginning July 1, 2016	\$2.77 per hour beginning January 1, 2005
\$12.50 per hour beginning July 1, 2017	\$3.33 per hour beginning July 1, 2017
\$13.25 per hour beginning July 1, 2018	\$3.89 per hour beginning July 1, 2018
\$14.00 per hour beginning July 1, 2019	\$4.45 per hour beginning July 1, 2019
\$15.00 per hour beginning July 1, 2020	\$5.00 per hour beginning July 1, 2020
\$15.20 per hour beginning July 1, 2021	\$5.05 per hour beginning July 1, 2021

• Every employer subject to the provisions of the Act must post the Minimum Wage Poster in or about the premises at which any employee covered is employed.

TIPPED EMPLOYEES

D.C. Code § 32-1003(f)(1). (Employers may pay a Tipped Minimum Wage)

As of July 1, 2020, the minimum wage required to be paid by any employer in the District of Columbia to any employee who receives tips/gratuities is \$ 5.00 an hour, provided that the employee actually receives tips/gratuities in an amount at least equal to the difference between the hourly wage paid and the minimum wage. Beginning on July 1, 2021, employees who receive tips/gratuities shall be \$ 5.05 an hour.

- July 1, 2020 June 30, 2021 Full Minimum Wage =
 \$15.00 per hour
 - Tipped Minimum Wage = \$5.00 per hour
 - Maximum Tip Credit now= \$10.00 per hour(\$15.00-\$5.00)
- July 1, 2021 June 30, 2022 Full Minimum Wage =
 \$15.20 per hour
 - Tipped Minimum Wage = \$5.05 per hour
 - Maximum Tip Credit now= \$10.15 per hour(\$15.20-\$5.05)

TIPPED EMPLOYEE LAW

D.C. Code § 32-1003. Requirements. (To pay the \$5.00 tipped minimum wage)

- (g) (1) The employee receiving tips has been informed by the employer...
 - Can use Notice of Hire document (Next Slide)
 - (2) All gratuities received by the employee have been retained by the employee, except that this provision shall not be construed to prohibit the pooling of gratuities among employees who customarily receive gratuities.
 - ... such as waiters, waitresses, valets, counter personnel (who serve customers), bussers, and service bartenders. A valid tip pool may **NOT include** employees who do not customarily and regularly received tips, such as **managers**, **dishwashers**, **cooks**, **chefs**, **and janitors**.

(Reference: US DOL Fact Sheet #15 "Tipped Employees under FLSA"



Notice of His	re (Check only one)
☐ At Hire ☐ Current Employee ☐ Annual- Effective	Current Date Change in pay rate(s) or payday
S	ection 1
Employer	Employee
Company Name:	Employee Name-
	Physical Address:
Permanent Address:	City: State: Zip Code:
City: State: Zip Code: Mailing Address: 🔾 Same as Physical Address	Mailing Address: Same as Physical Address
**************************************	Street Line 2:
Street Line 2: Zip Code: City State: Zip Code: Phone: (City:State:Zip Code: Phone: ()
S	Section 2
Pay Frequ	ency and Payday
Pay Frequency:(Weekly, bi-weekly, semi-monthly, monthly, etc.)	Designated Pay Day
S	ection 3
Allowances Claimed A	As Part of Wages: 🗖 None, or:
□ Tips \$per hour □ Mads \$per med □ Ladging \$per □ Other \$per	
S	Section 4
Tippe	d Employees
D.C. Official Code § 32-1003(f) The minimum hourly wage required to be paid by any employer t	to an employee who receives gratuities ("tipped minimum wage"), naunt at least equal to the difference between the hourly wage paid
July 1, 2005: \$2.77 July 1, 2017: \$3.35 July 1, 2018: \$3 D.C. Official Code \$ 32-1003(g) All protriities received by the employee must be retained by the the pooling of protriities among employees who customarily rece	umployee, except that this provision shall not be construed to prohibit

Employer Reporting Requirements

D.C. Code § 32-1009.01. Notice requirements for tipped wages.

- (a) An employer who employs an employee who....
 - Receives gratuities, and
 - Is paid at least the \$5.00 tipped minimum wage

shall submit a quarterly wage report **within 30 days** of the end of each quarter to the Mayor certifying that the employee was paid the required minimum wage.

Employer Reporting Requirements

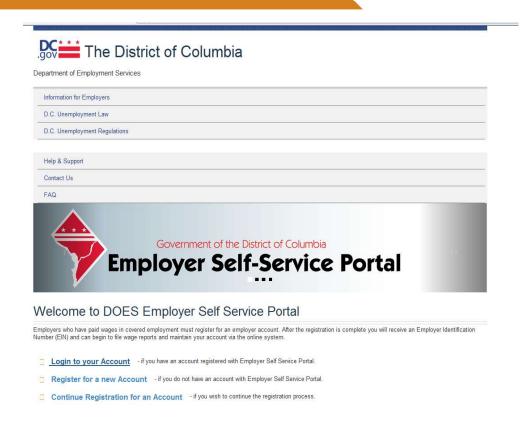
D.C. Code § 32-1009.01. Notice requirements for tipped wages.

- (b) (1) The Mayor shall create an Internet-based portal for online reporting of the quarterly wage reports required by subsection (a) of this section.
- (2) An employer shall **submit** its quarterly wage reports **online** unless the employer claims that online reporting *creates a hardship*, in which case the employer shall submit its reports in hard-copy form.

Tipped Wage Report

Employer Self-Service Portal

DOES has created an Internet-based Portal for reporting Tipped Wages in conjunction with the UI Tax Quarterly Wage submissions.



TIPPED WAGE WORKERS FAIRNESS AMENDMENT ACT REQUIREMENTS

New Reporting Requirements

- As of January 1, 2020, the third-party payroll businesses required pursuant to § 32-1008(a-1) to process payroll for an employer that employs a tipped worker and hotel employers that employ a tipped worker shall submit a quarterly wage report for the preceding calendar quarter to the Mayor no later than 30 days after the end of each calendar quarter.
- (2) Each quarterly wage report shall certify that each tipped worker was paid at least the required minimum wage, including gratuities, and shall include the following:
- (A) Itemized, for each tipped worker, the worker's:
- (i) Name;
- (ii) Average hourly wage received per week during the quarter;
- (iii) Total hours worked at or above the minimum hourly wage established under § 32-1003(f) per week;
- (iv) Gross wages received per week; and
- (v) Total gratuities received per week.

New Reporting Requirements Cont'd

- **(B)** For a hotel employer, a certification that all of the information in the report is accurate;
- (C) For a third-party payroll business, a certification that the information in the report was generated using the same payroll data used to generate the information required to be furnished to employees pursuant to § 32-1008(b); and (D) If tips were shared, a copy of the employer's tip-sharing policy used during the quarter.

New Training Requirements



- Tip Portal system training
- Sexual harassment training
- D.C. Wage Law training

New Website Requirements

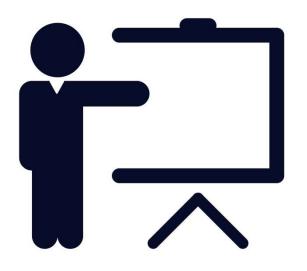


Create and Maintain a Website with the following laws:

- Living Wage Act of 2006 [subchapter X-A of Chapter 2 of Title 2];
- Human Rights Act of 1977 [Unit A of Chapter 14 of Title 2];
- **District of Columbia Family and Medical Leave Act of 1990** [subchapter I of Chapter 5 of this title];
- Parental Leave Act of 1994 [subchapter II of Chapter 5 of this title];
- Accrued Sick and Safe Leave Act of 2008 [subchapter III of Chapter 5 of this title];
- Repealed.
- Minimum Wage Act Revision Act of 1992 [subchapter I of Chapter 10 of this title];
- Building Service Employees Minimum Work Week Act of 2016 [Chapter 10A of this title];
- Protecting Pregnant Workers Fairness Act of 2014 [Chapter 12A of this title];
- An Act To provide for the payment and collection of wages in the District of Columbia [Chapter 13 of this title];
- District of Columbia Workers' Compensation Act of 1979 [Chapter 15 of this title]; and
- The Workplace Safety During the COVID-19 Pandemic Temporary Amendment Act of 2021, (Engrossed version of Bill 24-59)

D.C. Code§ 32–161.

PUBLIC EDUCATION CAMPAIGN



- Host webinars to educate the employers and employees on the new requirements
- Build on partnerships with sister agencies, community stakeholders and other offices within DOES that have compliance and enforcement authority
- Public Education Grantees

ADDITIONAL INFORMATION

For Posters, Notices, and complete text of any of these laws, please visit:

www.does.dc.gov

For questions or concerns, please contact the D.C. Office of Wage-Hour at **202-671-1880**.

or

Email: **OWH.ASK@dc.gov**

Office hours:

8:30 a.m. to 4:00 p.m. – Monday through Thursday 10:30 a.m. to 4:00 p.m. – Friday

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